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21 **UNITED STATES DISTRICT COURT**

22 **NORTHERN DISTRICT OF CALIFORNIA**

23 FITBIT, INC.

24 Plaintiff,

25 v.

26 ALIPHCOM d/b/a JAWBONE and  
 27 BODYMEDIA, INC.

28 Defendants.

Case No: 3:17-CV-1139-WHO

**JOINT MOTION TO EXTEND PRE-  
 MARKMAN AND MARKMAN  
 DEADLINES**

Judge: Hon. William H. Orrick  
 Date Transferred: Mar. 6, 2017

1 Plaintiff Fitbit, Inc. (“Fitbit”) and Defendants AliphCom d/b/a Jawbone and BodyMedia, Inc.  
 2 (collectively, “Jawbone”) hereby respectfully request an extension of the deadline for mediation (*see*  
 3 Dkt. 45) and the pretrial deadlines proposed by the parties and accepted by the Court at the June 13,  
 4 2017 Case Management Conference (*see* Dkts. 46-47).

5 The parties held a pre-mediation telephone conference with the court-appointed mediator,  
 6 Vicki Veenker, on June 28, 2017. Given the schedules of the parties and lead attorneys, including  
 7 trials in other cases, the parties agreed that extending the deadline by which to complete the  
 8 mediation until October 31, 2017 would be mutually beneficial. Ms. Veenker also stated that she had  
 9 no objection to such an extension.

10 Additionally, as noted in the July 14, 2017 notice filed by AliphCom (assignment for the  
 11 benefit of creditors) LLC (“Assignee”) (Dkt. 50), on June 19, 2017 Jawbone assigned all its assets to  
 12 Assignee. Since then, Assignee has elected to proceed with the defense of these actions as Attorney  
 13 in Fact for Jawbone. Jawbone requested and Fitbit agreed to a 30-day extension of the parties’  
 14 previously proposed pre-Markman deadlines to provide Assignee additional time to familiarize itself  
 15 with the case. This is the first requested amendment to the Court’s schedule. The parties’ agreed  
 16 upon schedule is set forth below:

Event	Current Deadline	Proposed New Deadline
Serve Invalidity Contentions and produce accompanying documents (Patent L.R. 303 and 3-4)	August 11, 2017	September 11, 2017
Exchange of Proposed Terms for Construction (Patent L.R. 4-1)	August 25, 2017	September 25, 2017
Exchange of Preliminary Claim Construction and Extrinsic Evidence	September 15, 2017	October 13, 2017
Serve Damages Contentions (Patent L.R. 3-8)	October 2, 2017	November 1, 2017

1	File Joint Claim Construction and Prehearing Statement (Patent L.R. 4-3)	October 10, 2017	November 10, 2017
2	Serve Responsive Damages Contentions (Patent L.R. 3-9)	November 1, 2017	December 1, 2017
3	Completion of Claim Construction Discovery (Patent L.R. 4-4)	November 9, 2017	December 8, 2017
4	File Opening Claim Construction Brief (Patent L.R. 4-5)	November 24, 2017	January 5, 2018
5	File Responsive Claim Construction Brief (Patent L.R. 4-5)	December 8, 2017	January 19, 2018
6	File Reply Claim Construction Brief (Patent L.R. 4-5)	December 15, 2017	January 26, 2018
7	Claim Construction Tutorial	January 12, 2018	<b>TBD by Court</b>
8	Claim Construction Hearing	January 19, 2018	<b>TBD by Court</b>

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17 Dated: August 1, 2017

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By: /s/ Frederick S. Chung

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Joint Motion to Extend Pre-Markman and Markman Dates  
 Case No. 3:17-CV-1139-WHO

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## **ATTESTATION IN CONCURRENCE OF FILING**

In accordance with the Northern District of California's General Order No. 45, Section X.(B), I, Frederick Chung, attest that concurrence in the filing of this document has been obtained from each of the other signatories who are listed on the signature pages.

Dated: August 1, 2017

By: /s/ Frederick S. Chung  
Frederick S. Chung

## **CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2017, I caused to be electronically filed the foregoing Notice of Appearance of Counsel with the Clerk of the Court via CM/ECF. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing systems.

Dated: August 1, 2017

By: /s/ Frederick S. Chung  
Frederick S. Chung

## ORDER

**PURSUANT TO STIPULATION, IT IS SO ORDERED** as modified below:

## **Tutorial set for: February 16, 2018**

## **Claim Construction set for: February 23, 2018**

Dated: August 4, 2017

By:

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**WILLIAM H. ORRICK  
UNITED STATES DISTRICT JUDGE**